

Significant Legislative Rule Analysis

Creating WAC 246-834-345

Creating WAC 246-834-350

Creating WAC 246-834-360

Creating WAC 246-834-370

A Rule Concerning License Renewal Requirements for Midwives

May 1, 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

Second Substitute House Bill (2SHB) 1773 (Chapter 187, Laws of 2014) Section 3 amended RCW 18.50.102 requiring the Department of Health (department) to adopt rules for renewal requirements for licensed midwives. Before the passage of 2SHB 1773, there were no renewal requirements for midwives except for the annual fee. To implement the bill, the proposed rule describes the renewal requirements for midwives in Washington State. The statute now requires 30 hours of continuing education (CE) every three years, participation in a peer review process and participation in data submission on perinatal outcomes to a research organization

The department, in consultation with the Midwifery Advisory Committee, received input from the Midwifery Association of Washington State and comments from the public. The proposed rules create several educational categories in which licensed midwives are allowed to obtain CE requirements. The peer review process requires licensed midwives to submit a minimum of five clinical cases every two years to a department approved Coordinated Quality Improvement Program (CQIP). The requirement of five clinical cases every two years mirrors the requirements for many Washington midwives that belong to a major state association or have liability insurance. There is also a new requirement for submitting perinatal data on all clients annually to a research organization approved by the department. Lastly, a new section was created that lists all of the statutory and administrative code requirements for a midwife to renew licensure.

Midwife stakeholders in Washington support the renewal requirements. Many of them already have to obtain continuing education credits and participate in peer review for their national credential, association membership, or liability insurance.

Is a Significant Analysis required for this rule?

Yes, the proposed rules require a significant analysis.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

RCW 18.50.102, as amended by 2SHB 1773, Section 3, directs the department to write rules for renewal to include 30 hours of CE every three years, participation in a Washington State coordinated quality improvement program and participation in data submission to a national or state research organization.

RCW 18.50.135 directs the department to adopt rules as it deems necessary in the administration of the chapter.

The objective of the proposed rule changes are to create rule language that includes the new renewal requirements for a licensed midwife, as directed by statute.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The midwifery program has determined that there are no feasible alternatives to this rulemaking as rules are required by 2SHB1773. The proposed rules will achieve the authorizing statute's goals and objectives by providing a clear process for applicants to obtain their renewal requirements.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

WAC 246-834-345 License Renewal: This proposed section was created in order to make one place in the rule where all statutory and administrative code renewal requirements for midwives licenses were listed.

Cost Benefit Analysis: This section has no costs for the midwife; rather it is for administrative purposes. The benefit of adding this to the rule is that midwives will be able to readily see the requirements for renewal in one place instead of having it spread throughout the chapter.

WAC 246-834-355 Continued Competency -Rule Overview: Licensed midwives would now be required to obtain 30 hours of CE every three years under the proposal. The rule establishes several allowed categories of the continuing education hours. To reduce barriers, these categories mirror those required for the national certification through the North American Registry of Midwives (NARM). The proposed rule also identifies minimum and maximum hours allowed for several of the categories: CE coursework; college classes; research, writing or teaching; self-study or life experience; serving on a professional board or association; professional manuscript review; and professional conference. Limits on allowable hours on several of the categories to ensure midwives receive a well-rounded CE experience.

Cost Benefit Analysis: Midwives can obtain CE through a variety of venues including NARM, associations, midwifery schools, conferences and the peer review process. Theoretically, a licensed midwife could get their CE at no cost, but it is likely they may have to pay for some courses. Prices can vary from no cost classes through NARM to \$150 or more for attending a conference. The burden of time and money to meet the CE requirement can be spread out over the course of three years. Although the CE requirement is a new cost, many midwives are already completing CE course work to maintain good standing with their association, their liability carrier, or both.

WAC 246-834-360 Quality Improvement Program for Midwives- Rule Overview: Under the proposal, licensed midwives would now be required to participate in a peer review process within the context of a department quality improvement program as approved under RCW 43.70.510. Peer review requires that midwives actively seek knowledge of other practitioners on specific, potentially complex cases. Presenting no less than five clinical cases every two years mirrors the requirement for midwives that are members of the Midwives Association of Washington State, as well as the liability carrier Joint Underwriters Association (JUA).

Cost Benefit Analysis: There will be nominal costs for midwives to participate in the quality improvement program, which includes costs of copying and sending required records. It ensures that midwives are presenting a robust number of cases for peer review to ensure public safety. The benefit and intent of the coordinated quality improvement program is the improvement of the quality of health care services by identifying and preventing health care malpractice. Information and documents specifically created for, collected, and maintained by an approved quality improvement committee are exempt from disclosure. This process allows a safe environment for the committee to provide critical feedback to each other in the spirit of learning.

WAC 246-834-370 Data Submission- Rule Overview: Licensed midwives would be required to submit data on all courses of care to a national or state research organization approved by the department and listed on the department's website under the proposal. Midwives must submit data at least annually on all courses of care. If the mother declines to participate in data collection, the midwife must follow the protocols of the research organization for that client.

Cost Benefit Analysis: The data submission program has no costs for the midwife, other than the ancillary cost of inputting the data. The benefit of the program is that midwives will have access to his or her perinatal outcomes over the course of time, as well as have the ability to see their outcomes in relation to the statistics of other midwives.

Rule Cost/Benefit Summary: The benefit of the proposed changes is that it will create and maintain a high standard of knowledgeable licensees with continued competency courses; offer real, useful data on perinatal outcomes for mom and baby; and afford licensees the opportunity to participate in a peer review program intended to improve the quality of health care by identifying and preventing malpractice in a safe environment with colleagues. The costs are minimal, can be spread out over three years, and are already required for those midwives belonging to MAWS and carrying JUA insurance. Therefore the total probable benefits of the rule exceed the total probable costs.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

A few different models of CE requirements were considered. The department decided the least burdensome alternative would be to mirror the national standards for national certification as many of our licensed midwives are also nationally certified. The peer review participation and data submission programs had no alternatives considered. The rule closely mimics statute.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The rule does not require those to whom it applies to take an action that violates requirements of federal or state law.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

It was determined that the rule does not impose more stringent performance requirements on private entities than on public entities.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The rule does not differ from any applicable federal regulation or statute.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

There are no other applicable laws.